IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5696 of 1990

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ARUNBHAI D MEKWAN,

Versus

GUJARAT WATER RESOURCES DEVELOPMENT CORPORATION LTD.

Appearance:

MR MB GANDHI for Petitioner

MR PARESH UPADHYAY for Respondent No. 1, 2

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 11/08/2000

ORAL JUDGEMENT

The petitioner through a written test and interview was selected for the post of Jr.Clerk cum Typist in the office of the respondent, Gujarat Water Resources Development Corporation Ltd. An order of appointment was issued on 22.2.1985. One of the relevant

terms of his appointment No.21 reads as under:-

"21. Your appointment is purely temporary for limited period upto 30.6.1985 for a particular programme of 1000 tubewells scheme undertaken by the Corporation. Hence it can be terminated without assigning any reason or notice. Your appointment may be extended at the discretion of the Management at the end of this period i.e. on 30.6.1985."

2. After issuing the order of appointment, within a short period of less than 5 days, a communication was sent to the petitioners on 26.2.85 informing him that the order of appointment had been kept in abeyance until further orders and he should await further communication in the matter. Thereafter the petitioner sent 2 representations in the year 1989 seeking appointment under the appointment letter issued to him earlier and which was kept in abeyance. After a period of 5 years, by the impugned communication dated 26.5.90 (Annexure F), the petitioner was informed that it was not possible to give him an order of appointment for several administrative reasons interalia that there is economic crisis due to drought conditions in 1997-98, the ratio of direct recruits and promotion was not maintained in making the recruitment and a backlog of SC/ST candidates was required to be filled.

3. Having failed to obtain appointment on the basis of the selection in the year 1985 & after receipt of the impugned communication in the year 1990, approach has been made to this Court by this petition in which the relief claimed is that the respondent Corporation be directed to give effect to the order of appointment issued in his favour on 22.285.

4. I have considered the submissions made in the petition and heard the Learned Counsel for both the sides. The petitioner was duly selected under the selection procedure and an appointment letter was issued in his favour. The aforesaid fact is not disputed. It is the petitioner's misfortune that within less than a period of 5 days, the appointment order was kept in abeyance and after a long period of about 4 years, he was ultimately informed that it was not possible to give him appointment. A question before this Court, is whether the petitioner can claim enforceable right of appointment under the terms of his appointment order dated 22.2.1985?

5. It has been pointed out on behalf of the Corporation that under condition no.21 of the order of appointment (quoted above), the appointment offered was for a limited period i.e. upto 30.6.85 and extendable at the discretion of the Management. The period for which the appointment was offered has already expired. The discretion to extend the same was reserved by the Government. The letter of appointment was kept in abeyance. The petitioner thereafter was free to seek employment elsewhere and was not expected to wait indefinitely for lifting of the order of abeyance and issuing again an appointment order. On his representation, he has been informed that there are several administrative reasons for which appointment cannot again be offered. The reasons mentioned in the impugned communication for refusing to give another opportunity of employment to the petitioner do not appear to be an excuse to deny him a chance of appointment.

6. It is well settled that an employee has only a constitutional right to be considered for appointment to a public post as and when it is available for appointment. No citizen can however claim right to be appointed on a particular post when the employer has reasons not to fill that post. For the reasons aforesaid, the relief claimed by the petitioner cannot be granted. Consequently, the petition fails and is dismissed. Rule discharged. No order as to costs.

(D.M.Dharmadhikari, CJ)

jitu